

## Remarks

Claims 1, 2, 4, 8, 15-18, and 20-22 are pending. Claims 10 and 12-14 are canceled in this amendment. Claims 3, 5-7, 9, 11, 19, and 23-27 were previously canceled. Claims 1 and 8 are amended to state that the lecithin product is prepared by a method wherein in step (b) that the weight ratio of the crude lecithin material to the blend of ethanol and water is about 1:4. Support for this amendment can be found in cancelled claim 12. Claims 1 and 8 are further amended to state that the weight ratio in step (d) of the retained solids to the blend of ethanol and water is about 1:4. Support for this amendment can be found in cancelled claim 14.

## Rejection under 35 U.S.C. §103

Claims 1, 2, 8, 15-18, 21 and 22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Umeda et al. (U.S. Patent No 5,833,858) as further evidenced by the Merck Index. Claims 12 and 14 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant has amended claims 1 and 8 to incorporate the limitations of cancelled claims 12 and 14. Applicant has amended claims 1 and 8 to state that the lecithin product is prepared by a method wherein in step (b) that the weight ratio of the crude lecithin material to the blend of ethanol and water is about 1:4 (cancelled claim 12). Applicant has amended claims 1 and 8 to state that the weight ratio in step (d) of the retained solids to the blend of ethanol and water is about 1:4 (cancelled claim 14). There is no teaching in Umeda et al directed to the limitations now present in instant components (b) and (d).

Since claim 2 depends from claim 1 and since claims 15-18, 21 and 22 depend from claim 8, and since claims 1 and 8 are demonstrated to be patentably distinct over Umeda et al., claims 2, 15-18, 21 and 22 are also patentably distinct over Umeda et al.

In order for the Office to show a *prima facie* case of obviousness, M.P.E.P. §2143 requires that the Office must meet three criteria: (1) the prior art reference must teach or suggest all of the claim limitations; (2) there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference, and (3) there must be some reasonable expectation of success. The Office has clearly failed to meet its burden under (1) and/or (2) above, since the teachings of Umeda et

al. fail to teach or suggest all of the claim limitations of Applicant's claims 1 and 8, as amended. Reconsideration and withdrawal of this ground of rejection is respectfully requested.

Claims 4 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Umeda et al. as further evidenced by the Merck Index and further in view of Losch et al.

It is Applicant's belief that claims 1 and 8 are amended to overcome the rejection of Umeda et al. Since claims 4 and 20 depend from claims 1 and 8, respectively, claims 4 and 20 are also patentably distinct over Umeda et al. in view of Losch et al.

In order for the Office to show a *prima facie* case of obviousness, M.P.E.P. §2143 requires that the Office must meet three criteria: (1) the prior art reference must teach or suggest all of the claim limitations; (2) there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference, and (3) there must be some reasonable expectation of success. The Office has clearly failed to meet its burden under (1) and/or (2) above, since the teachings of Umeda et al. with Losch et al. fail to teach or suggest all of the claim limitations of Applicant's claims 4 and 20, which depend from claims 1 and 8, respectively. Reconsideration and withdrawal of this ground of rejection is respectfully requested.

### **Rejection under 35 U.S.C. §112**

Claim 10 was rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It was stated in the Office Action that claim 10 (the weight ratio of ethanol to water of about 5:4) appears to fall outside the range of claim 8 (the weight ratio of ethanol to water of from about 3:1 to about 1:3). Applicant agrees with the Examiner and has cancelled claim 10. As such, this rejection is now rendered moot.

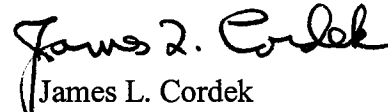
For the foregoing reasons, it is submitted that the present claims are in condition for allowance. The foregoing remarks are believed to be a full and complete response to the outstanding office action. Therefore favorable reconsideration and allowance are respectfully requested. If for any reason the Examiner believes a telephone conference would expedite the

prosecution of this application, it is respectfully requested that she call Applicants' representative at 314.659.3218.

If any additional fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 50-0421.

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Respectfully submitted,  
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